THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.27616 of 2007

Dated:28.2.2007

Between
M/s.Visaka Industries Ltd
Rep., by its Senior Vice President
K.V.Soorinarayananan

.....Petitioner

and

1. Ms.K.Nalini Singh
And another.

…Respondents

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.27616 of 2007

ORDER:

This writ petition is filed by the Management seeking a Certiorari to call for the records relating to the Award made in I.D.No.102 of 1995 dated 8.8.1997 on the file of the Additional Industrial Tribunal-cum-Additional Labour Court, Hyderabad.

When the services of the 1st respondent were terminated, she raised a dispute under Section 2-A (2) of the Industrial Disputes Act, 1947 (for short 'the Act') before the Additional Industrial Tribunal-cum-Additional Labour Court, Hyderabad stating that she was working as Personal Secretary in the petitioner-Management, she went on PL from 23.2.1995 to 31.3.1995 and she reported to duty on

3.4.95. The petitioner-Management became sore and started harassing her. When she sought for promotion, the Managing Director got angry and insisted her to tender resignation and threatened her that she would be implicated in a criminal case if she did not oblige and did not accept the demand. Later she was called by the police and was interrogated and was threatened on oral complaint to police and thus keeping her on a threat for criminal prosecution they obtained resignation letter from her. She immediately sent a telegram informing the respondents that she did not want to resign and her resignation was obtained by force. She also sent another telegram dated 17.4.995 and a legal notice 27.4.1995 stating that her resignation was obtained by force and that it was illegal and unjustified and the same amounts to retrenchment and no notice of any kind was given under Section 25 of the Act.

The petitioner-Management opposed the

petition and stated that she herself voluntarily submitted a resignation for personal reasons and resignation was accepted. Later she issued a false telegram only to get some monetary benefits and there is no truth in her averments. It is further contended that the 1st respondent is not a workman within the meaning of Section 2-S of the Act as she was working in the supervisory cadre. It is further contended that since it is a case of voluntary resignation, the provisions of Section 25-F of the Act has no application.

Before the Labour Court, on behalf of the 1st respondent-workman WWs.1 to 3 were examined and Exs.W1 to W10 were marked. On behalf of the petitioner-Management MW1 was examined and Exs.M1 to M5 were marked.

After a detailed consideration of both oral and documentary evidence, the Labour Court came to the conclusion that the resignation tendered by the 1st respondent was obtained

by force and therefore, it must be deemed that she was retrenched forcibly and thus the petitioner-Management has violated the provisions of Section 25-F of the Act and as such the 1st respondent is entitled for reinstatement. Since learned counsel appearing for the petitioner-management requested that in case the Court is holding that the termination is illegal and the resignation is obtained by force, then the Court may not order reinstatement of the petitioner since the management has lost confidence in the employee and therefore, if she is reinstated it may cause some embarrassment to both the employee and the employer. Hence, the Labour Court directed the petitioner-Management to pay 5 years salary without HRA and other allowances and bonus by way of compensation. Aggrieved by the same, the Management filed the writ petition.

The findings of the Labour Court may be

noticed as under:

> *"The circumstances of accepting the resignation then and there it self at the same time is also a positive indication of the resignation letter (Ex.M5) being a forced one. These circumstances coupled with the evidence of WW1 to WW3 lead us to the conclusion that the contention of the petitioner that this Ex.M5 resignation letter was obtained forcibly is most reasonable and sound. MW1 the respondent/Managing Director stated that the petitioner wanted to have a marriage and therefore she applied for resignation. If that is the case the petitioner would not have failed to mention that reason. The petitioner has served the company for more than 10 years. As observed by me supra, I do not think that any worker will leave the office losing the benefits to which he or she is entitled under law. If really she is resigning on account of marriage only she might have given one month notice. It should not be in hurry. Absence of non mention of reason and seeking urgent acceptance waiving right of notice speaks volumes. This (submission of resignation letter) might be a cumulative effect of harassment meted at the hands*

of the Managing Director or a false report to the police and interrogation by the police officials. The very sending of telegram on the following day disputing resignation letter is also a positive indication of the petitioner's contention that the resignation letter was obtained from her by force. Otherwise if it is a voluntary resignation she would not have hesitated to receive the monetary benefits which are said to have been sanctioned to her. The very non receipt of the monetary benefits sanctioned corroborates her plea. Further sending a telegram immediately denotes that the resignation is not voluntary and the petitioner having wrigghol out of the custody of the respondent/management company sent the telegram disputing the resignation letter at her earliest opportunity.

The very mentioning of the petitioner's waiving her right of notice as a special case is another supporting factor to the petitioner's contention that the resignation letter was got written by force to the dictation of MW1. The circumstances broadly show that the petitioner was forced to resign the job and I do agree with the petitioner's contention that it was not a voluntary

resignation and therefore, the termination of the job amounts to illegal termination and illegal retrenchment. The petitioner is entitled to all the benefits as per the ID Act."

From the above, it is clear that the 1st respondent was forced to resign from the post and therefore, the Labour Court rightly held that the retrenchment of the 1st respondent from service is illegal and thus came to the conclusion that the 1st respondent is entitled for compensation in lieu of reinstatement in view of the fact that the petitioner-Management expressed that it had lost confidence in the employee.

I am of the opinion that no ground is made out calling for interference of this Court under Article 226 of the Constitution of India. Writ petition is devoid of merits and is liable to be dismissed.

Writ petition is dismissed accordingly. No costs.

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28-02-2007

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